

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Jose Cardenas,

Plaintiff,

v.

D B Industries, LLC, and 3M d/b/a 3M Fall
Protection,

Defendants.

Case No. 21 CV 2200

**Notice of Removal of Civil Action from the
Circuit Court of Cook County (Case No.
2021 L 002155)**

NOTICE OF REMOVAL

Under 28 U.S.C. §§ 1332, 1441, and 1446, Defendants D B Industries, LLC (“DBI”) and 3M d/b/a 3M Fall Protection (“3M”) remove the above-entitled action from the Circuit Court of Cook County, Illinois, Law Division, to the United States District Court of Northern District of Illinois, Eastern Division, based on the following grounds:

NATURE OF THE ACTION

1. On February 25, 2021, Plaintiff Jose Cardenas filed his Complaint in the Circuit Court of Cook County, asserting products liability claims against Defendants due to purported injuries that he sustained from an alleged incident occurring on March 12, 2019 at Bulkmatic Transport Company, 7000 Santa Fe Drive, Hodgkins, IL 60525. (Summons and Complaint, attached as **Exhibit 1**.) Plaintiff served his Complaint upon Defendants on March 25, 2021. (*Id.*)

JURISDICTION

2. This action is removable to this Court under 28 U.S.C. § 1441(a) because this Court has original jurisdiction over this matter under 28 U.S.C. § 1332 given that there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

CITIZENSHIP OF THE PARTIES

3. On information and belief, at the time of the subject incident, at the time this action was filed in Illinois State Court, and at the time of the filing of this Notice of Removal, Plaintiff was a citizen of Illinois and resided in Chicago, Illinois.

4. At the time of the subject incident, at the time this action was filed in Illinois State Court, and at the time of the filing of this Notice of Removal, DBI was a Minnesota limited liability company with its principal place of business in Minnesota, and 3M was a Delaware corporation with its principal place of business in Minnesota. The sole member of DBI is Capital Safety North America Intermediate Holdings LLC, which is a Delaware limited liability company with its principal place of business in Minnesota. The sole member of Capital Safety North America Intermediate Holdings LLC is Capital Safety North America Holdings Inc., which is a Delaware corporation with its principal place of business in Minnesota.

5. Accordingly, there exists complete diversity of citizenship between Plaintiff and Defendants.

AMOUNT IN CONTROVERSY

6. The Complaint alleges that Plaintiff sustained the following injuries as a result of the subject incident:

That as a direct and proximate result of one or more of the aforementioned negligent acts or omissions, the Plaintiff, JOSE CARDENAS, suffered severe and permanent injuries. He did incur and will in the future incur medical expenses, did and will in the future experience pain and suffering, and was kept and will in the future be kept from his usual occupation, duties, and affairs of daily life.

(Ex. 1, Compl. ¶ 16.)

7. Because Plaintiff alleges “severe and permanent” injuries, including past and future medical expenses, past and future lost wages, and past and future pain and suffering, Defendants have a good-faith belief that the amount in controversy exceeds \$75,000. *See Rising-Moore v. Red*

Roof Inns, Inc., 435 F.3d 813, 816 (7th Cir. 2006) (noting that to establish the amount-in-controversy requirement, the removing party must show only “what the plaintiff hopes to get out of the litigation; if this exceeds the jurisdictional amount, then the case proceeds in federal court”).

8. Accordingly, Defendants submit that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

REMOVAL PROCEDURES

9. Defendants timely file this Notice of Removal under 28 U.S.C. § 1446(b)(1). The Complaint is the initial pleading setting forth the claim for relief upon which this action is based. Plaintiff filed his Complaint on February 25, 2021, but did not effectuate service on Defendants until March 25, 2021. Therefore, Defendants file this Notice of Removal within 30 days after receipt of the Complaint. (Ex. 1, Summons.)

10. All Defendants join in and consent to the removal of this action under 28 U.S.C. § 1446(b)(2).

11. Under 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Defendants will give written notice of the removal to Plaintiff through his attorney of record, and to the Clerk of the Circuit Court of Cook County. Such written notice has been provided here (State Court Notice of Removal, **attached as Exhibit 2.**)

12. In conclusion, removal of this action under 28 U.S.C. § 1441 is proper because this Court has original jurisdiction over this matter under 28 U.S.C. § 1332, and all requirements for removal under 28 U.S.C. § 1446 have been met.

13. Defendants expressly reserve all of their defenses and further right to amend or supplement this Notice of Removal.

WHEREFORE, Defendants hereby remove the above-entitled action from the Circuit Court of Cook County, Illinois, Law Division, to the United States District Court of Northern District of Illinois, Eastern Division.

Respectfully submitted,

By: /s/ Jason P. Eckerly
Jason P. Eckerly, Esq. - jeckerly@smsm.com
Patrick F. Sullivan, Esq. - psullivan@smsm.com
SEGAL MCCAMBRIDGE SINGER & MAHONEY
233 South Wacker Drive, Suite 5500
Chicago, IL 60606
(312) 645-7800
Firm # 13681
Attorneys for Defendants

Jenny Gassman-Pines, Esq. – jgassman-pines@greeneespel.com
Aaron P. Knoll, Esq. – aknoll@greeneespel.com
GREENE ESPEL, PLLP
222 South Ninth Street, Suite 2200
Minneapolis, MN 55402-3362
(612) 373-8371
Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on **April 23, 2021**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system and served the foregoing Notice of Removal upon the counsel of record listed below, via regular U.S. Mail, proper postage pre-paid, from the offices of Segal McCambridge Singer & Mahoney, Ltd., Suite 5500, 233 S. Wacker Drive, Chicago, IL 60606, and electronic mail message:

Susan D. Smith, Esq.
Harman & Fedick, Ltd.
221 N. LaSalle Street, Suite 2150
Chicago, IL 60601
firm@harmlaw.com
Attorneys for Plaintiff

By: /s/ Jason P. Eckerly
Jason P. Eckerly, Esq. - jeckerly@smsm.com
Patrick F. Sullivan, Esq. - psullivan@smsm.com
SEGAL MCCAMBRIDGE SINGER & MAHONEY
233 South Wacker Drive, Suite 5500
Chicago, IL 60606
(312) 645-7800
Firm # 13681
Attorneys for Defendants